

## **Assembly Bill No. 1962**

### **CHAPTER 945**

An act to amend Section 250 of the Evidence Code, and to amend Section 6252 of the Government Code, relating to electronic communication.

[Approved by Governor September 26, 2002. Filed  
with Secretary of State September 27, 2002.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**AB 1962, Hollingsworth. Electronic communication.**

Existing law relating to evidence in court actions and specified administrative proceedings defines evidence as including a writing, which is defined as handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

The California Public Records Act, which requires each state and local agency to make its records open to public inspection at all times during office hours, with specified exemptions, defines public records as including any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. The act defines a writing as handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

This bill would define writing under these provisions to mean handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. By expanding the scope of public records that local agencies are required to make available for public inspection, this bill would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would state that it is declaratory of existing law.

This bill would incorporate additional changes in Section 6252 of the Government Code proposed by AB 2937 that would become operative if both bills are enacted and this bill is enacted last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 250 of the Evidence Code is amended to read:

250. "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

SEC. 2. Section 6252 of the Government Code is amended to read: 6252. As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or nonprofit entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) "Public agency" means any state or local agency.

(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the



Governor's office means any writing prepared on or after January 6, 1975.

(f) "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

(g) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

SEC. 2.5. Section 6252 of the Government Code is amended to read: 6252. As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) "Public agency" means any state or local agency.

(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

(f) "Writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

(g) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting



within the scope of his or her membership, agency, office, or employment.

SEC. 3. The Legislature finds and declares that the amendments to Section 250 of the Evidence Code and Section 6252 of the Government Code made by this act do not constitute a change in, but are declaratory of, existing law.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 6252 of the Government Code proposed by both this bill and AB 2937. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 6252 of the Government Code, and (3) this bill is enacted after AB 2937, in which case Section 2 of this bill shall not become operative.

